

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**BARBIE L. WARREN
3871 Don Tomaso Drive #7
Los Angeles, CA 90008**

Pharmacy Technician License No. TCH 40903

Respondent.

Case No. 3825

OAH Case No. L-2011060301

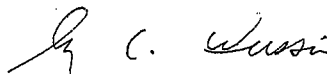
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 16, 2012.

It is so ORDERED on February 15, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LANGSTON M. EDWARDS
Deputy Attorney General
4 State Bar No. 237926
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-6343
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3825

11 **BARBIE L. WARREN**
12 **3871 Don Tomaso Drive, #7**
Los Angeles, CA 90008
13 **Pharmacy Technician Registration No. TCH**
40903

OAH No. L-2011060301
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 Respondent.
15

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20
21 **PARTIES**

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Kamala
24 D. Harris, Attorney General of the State of California, by Langston M. Edwards, Deputy Attorney
25 General.

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2. Respondent Barbie L. Warren (Respondent) is represented in this proceeding by attorney Jennille Smith, Esq., whose address is:

1300 Clay St., Ste. 600

Oakland, CA 94612

3. On or about December 18, 2001, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 40903 to Barbie L. Warren (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 3825 and will expire on April 30, 2013, unless renewed.

JURISDICTION

4. First Amended Accusation No. 3825 (Accusation) was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 29, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3825 is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 3825. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration

1 and court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5
6 **CULPABILITY**

7 8. Respondent understands and agrees that the charges and allegations in Accusation
8 No. 3825, if proven at hearing, constitute cause for imposing discipline upon her Pharmacy
9 Technician License.

10 9. For the purposes of resolving the Accusation without the expense and uncertainty of
11 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
12 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
13 those charges.

14 10. Respondent agrees that her Pharmacy Technician Registration is subject to discipline
15 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary
16 Order below.

17
18 **CONTINGENCY**

19 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
20 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
21 communicate directly with the Board regarding this stipulation and settlement, without notice to
22 or participation by Respondent or her counsel. By signing the stipulation, Respondent
23 understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation
24 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
25 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
26 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
27 and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 40903 issued to Respondent Barbie L. Warren (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. Certification Prior to Resuming Work

Respondent shall be automatically suspended from working as a pharmacy technician until she is certified as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Failure to achieve certification within one (1) year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent

1 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
2 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
3 substances. Respondent shall not resume work until notified by the board.

4 Subject to the above restrictions, respondent may continue to own or hold an interest in any
5 licensed premises by the board in which she holds an interest at the time this decision becomes
6 effective unless otherwise specified in this order.

7 Failure to comply with this suspension shall be considered a violation of probation.

8 **2. Obey All Laws**

9 Respondent shall obey all state and federal laws and regulations.

10 Respondent shall report any of the following occurrences to the board, in writing, within
11 seventy-two (72) hours of such occurrence:

- 12 • An arrest or issuance of a criminal complaint for violation of any provision of the
13 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
14 substances laws;
- 15 • A plea of guilty or nolo contendere in any state or federal criminal proceeding to any
16 criminal complaint, information or indictment;
- 17 • A conviction of any crime;
- 18 • Discipline, citation, or other administrative action filed by any state or federal agency
19 which involves respondent's Pharmacy Technician license or which is related to the
20 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
21 or charging for any drug, device or controlled substance.

22 Failure to timely report any such occurrence shall be considered a violation of probation.

23 **3. Report to the Board**

24 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
25 designee. The report shall be made either in person or in writing, as directed. Among other
26 requirements, respondent shall state in each report under penalty of perjury whether there has
27 been compliance with all the terms and conditions of probation. Failure to submit timely reports
28 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency

1 in submission of reports as directed may be added to the total period of probation. Moreover, if
2 the final probation report is not made as directed, probation shall be automatically extended until
3 such time as the final report is made and accepted by the board.

4 **4. Interview with the Board**

5 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
6 with the board or its designee, at such intervals and locations as are determined by the board or its
7 designee. Failure to appear for any scheduled interview without prior notification to board staff,
8 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
9 the period of probation, shall be considered a violation of probation.

10 **5. Cooperate with Board Staff**

11 Respondent shall cooperate with the board's inspection program and with the board's
12 monitoring and investigation of respondent's compliance with the terms and conditions of her
13 probation. Failure to cooperate shall be considered a violation of probation.

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 3825 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause her direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 3825 and the terms and conditions
23 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
24 supervisor(s) submit timely acknowledgement(s) to the board.

25 If respondent works for or is employed by or through a pharmacy employment service,
26 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
27 of the terms and conditions of the decision in case number 3825 in advance of the respondent
28 commencing work at each pharmacy. A record of this notification must be provided to the board

1 upon request.

2 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
3 (15) days of respondent undertaking any new employment by or through a pharmacy employment
4 service, respondent shall cause her direct supervisor with the pharmacy employment service to
5 report to the board in writing acknowledging that she has read the decision in case number 3825
6 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
7 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

8 Failure to timely notify present or prospective employer(s) or to cause that/those
9 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
10 probation.

11 "Employment" within the meaning of this provision shall include any full-time,
12 part-time, temporary or relief service or pharmacy management service as a pharmacy
13 technician or in any position for which a pharmacy technician license is a requirement
14 or criterion for employment, whether the respondent is considered an employee,
15 independent contractor or volunteer.

16 **7. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, respondent shall pay to the
18 board its costs of investigation and prosecution in the amount of \$5,500.00. Respondent shall pay
19 \$2,000.00 within 30 days of the effective date of this Decision. The balance of the board's cost of
20 investigation and enforcement (\$3,500.00) are to be paid in installments as agreed upon by the
21 Board. There shall be no deviation from this schedule absent prior written approval by the board
22 or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation
23 of probation.

24 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
25 reimburse the board its costs of investigation and prosecution.

26 **8. Probation Monitoring Costs**

27 Respondent shall pay any costs associated with probation monitoring as determined by the
28 board each and every year of probation. Such costs shall be payable to the board on a schedule as

1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
2 be considered a violation of probation.

3 **9. Status of License**

4 Respondent shall, at all times while on probation, maintain an active, current pharmacy
5 technician license with the board, including any period during which suspension or probation is
6 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

7 If respondent's pharmacy technician license expires or is cancelled by operation of law or
8 otherwise at any time during the period of probation, including any extensions thereof due to
9 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
10 terms and conditions of this probation not previously satisfied.

11 **10. License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should respondent cease work due to
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
14 respondent may tender her pharmacy technician license to the board for surrender. The board or
15 its designee shall have the discretion whether to grant the request for surrender or take any other
16 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
17 license, respondent will no longer be subject to the terms and conditions of probation. This
18 surrender constitutes a record of discipline and shall become a part of the respondent's license
19 history with the board.

20 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
21 license to the board within ten (10) days of notification by the board that the surrender is
22 accepted. Respondent may not reapply for any license, permit, or registration from the board for
23 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
24 applicable to the license sought as of the date the application for that license is submitted to the
25 board.

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1 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

3 Respondent shall notify the board in writing within ten (10) days of any change of
4 employment. Said notification shall include the reasons for leaving, the address of the new
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
6 shall further notify the board in writing within ten (10) days of a change in name, residence
7 address and mailing address, or phone number.

8 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
9 phone number(s) shall be considered a violation of probation.

10 **12. Tolling of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a pharmacy technician in California for a minimum of 20 hours per calendar month.
13 Any month during which this minimum is not met shall toll the period of probation, i.e., the
14 period of probation shall be extended by one month for each month during which this minimum is
15 not met. During any such period of tolling of probation, respondent must nonetheless comply
16 with all terms and conditions of probation.

17 Should respondent, regardless of residency, for any reason (including vacation) cease
18 working as a pharmacy technician for a minimum of 20 hours per calendar month in California,
19 respondent must notify the board in writing within ten (10) days of cessation of work and must
20 further notify the board in writing within ten (10) days of the resumption of the work. Any
21 failure to provide such notification(s) shall be considered a violation of probation.

22 It is a violation of probation for respondent's probation to remain tolled pursuant to the
23 provisions of this condition for a total period, counting consecutive and non-consecutive months,
24 exceeding thirty-six (36) months.

25 "Cessation of work" means calendar month during which respondent is not
26 working for at least 20 hours as a pharmacy technician, as defined in Business and
27 Professions Code section 4115. "Resumption of work" means any calendar month
28 during which respondent is working as a pharmacy technician for at least 20 hours as

1 a pharmacy technician as defined by Business and Professions Code section 4115.

2 **13. Violation of Probation**

3 If a respondent has not complied with any term or condition of probation, the board shall
4 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
5 all terms and conditions have been satisfied or the board has taken other action as deemed
6 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
7 to impose the penalty that was stayed.

8 If respondent violates probation in any respect, the board, after giving respondent notice
9 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
10 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
11 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
12 a petition to revoke probation or an accusation is filed against respondent during probation, the
13 board shall have continuing jurisdiction, and the period of probation shall be automatically
14 extended until the petition to revoke probation or accusation is heard and decided.

15 **14. Completion of Probation**

16 Upon written notice by the board indicating successful completion of probation,
17 respondent's pharmacy technician license will be fully restored.

18 **15. No Ownership of Licensed Premises**

19 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
20 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
21 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
22 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
23 days following the effective date of this decision and shall immediately thereafter provide written
24 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
25 documentation thereof shall be considered a violation of probation.

26 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

27 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
28 attendance at a recognized and established substance abuse recovery support group in California,

1 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
2 or its designee. Respondent must attend at least one group meeting per week unless otherwise
3 directed by the board or its designee. Respondent shall continue regular attendance and submit
4 signed and dated documentation confirming attendance with each quarterly report for the duration
5 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
6 probation.

7 **17. Random Drug Screening**

8 Respondent, at her own expense, shall participate in random testing, including but not
9 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
10 screening program as directed by the board or its designee. Respondent may be required to
11 participate in testing for the entire probation period and the frequency of testing will be
12 determined by the board or its designee. At all times respondent shall fully cooperate with the
13 board or its designee, and shall, when directed, submit to such tests and samples for the detection
14 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
15 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
16 of probation. Upon request of the board or its designee, respondent shall provide documentation
17 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
18 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
19 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
20 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
21 shall be considered a violation of probation and shall result in the automatic suspension of work
22 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
23 board in writing.

24 During suspension, respondent shall not enter any pharmacy area or any portion of or any
25 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
26 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
27 devices or controlled substances are maintained. Respondent shall not do any act involving drug
28 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent

1 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
2 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
3 substances. Respondent shall not resume work until notified by the board.

4 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
5 Subject to the above restrictions, respondent may continue to own or hold an interest in any
6 licensed premises in which she holds an interest at the time this decision becomes effective unless
7 otherwise specified in this order.

8 Failure to comply with this suspension shall be considered a violation of probation.

9 **18. Work Site Monitor**

10 Within ten (10) days of the effective date of this decision, respondent shall identify a work
11 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
12 during working hours. Respondent shall be responsible for ensuring that the work site monitor
13 reports in writing to the board quarterly. Should the designated work site monitor determine at
14 any time during the probationary period that respondent has not maintained sobriety, she shall
15 notify the board immediately, either orally or in writing as directed. Should respondent change
16 employment, a new work site monitor must be designated, for prior approval by the board, within
17 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
18 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
19 considered a violation of probation.

20 **19. Notification of Departure**

21 Prior to leaving the probationary geographic area designated by the board or its designee for
22 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
23 writing of the dates of departure and return. Failure to comply with this provision shall be
24 considered a violation of probation.

25 **20. Abstain from Drugs and Alcohol Use**

26 Respondent shall completely abstain from the possession or use of alcohol, controlled
27 substances, dangerous drugs and their associated paraphernalia except when the drugs are
28 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon

request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.


21: Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least fifty (50) hours per year for the first two years of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jennille Smith, Esq. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

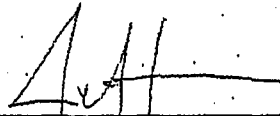
DATED: 12/1/11



BARB L. WARREN
Respondent

1 I have read and fully discussed with Respondent Barbie L. Warren the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4 DATED: 12/1/2011


Jennille Smith, Esq.
Attorney for Respondent

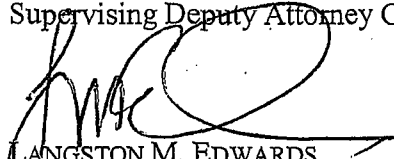
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: ~~November~~ ^{December} 1, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General


LANGSTON M. EDWARDS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3825

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LANGSTON M. EDWARDS
Deputy Attorney General
4 State Bar No. 237926
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-6343
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

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11 **BARBIE L. WARREN**
12 **3871 Don Tomas Drive, #7**
13 **Los Angeles, CA 90008**
14 **Pharmacy Technician Registration No. TCH**
40903

FIRST AMENDED
ACCUSATION

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her official
21 capacity as the Executive Officer of the California State Board of Pharmacy ("Board").
22 2. On or about December 18, 2001, the Board issued Pharmacy Technician Registration
23 Number TCH 40903 to Barbie L. Warren ("Respondent"). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on April 30, 2013, unless renewed.

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1 The board may inquire into the circumstances surrounding the commission of the crime, in order
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
6 of this provision.

7 ...
8 (p) Actions or conduct that would have warranted denial of a license."

9 7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
10 revoke a license when it finds that the licensee has been convicted of a crime substantially related
11 to the qualifications, functions or duties of the license.

12 8. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
13 controlled substance, except that furnished upon a valid prescription/drug order.

14 9. Section 4063 states, in pertinent part, that "[n]o prescription for any dangerous drug
15 ... may be refilled except upon authorization of the prescriber."

16 10. Section 480 states, in pertinent part:

17 "(a) A board may deny a license regulated by this code on the grounds that the applicant
18 has one of the following:

19 (1) Been convicted of a crime. A conviction within the meaning of this section
20 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any
21 action which a board is permitted to take following the establishment of a conviction may
22 be taken when the time for appeal has elapsed, or the judgment of conviction has been
23 affirmed on appeal, or when an order granting probation is made suspending the imposition
24 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
25 Penal Code.

26 (2) Done any act involving dishonesty, fraud or deceit with the intent to
27 substantially benefit himself or another, or substantially injure another; or
28

1 (3) Done any act which if done by a licentiate of the business or profession in
2 question would be grounds for suspension or revocation of license.

3 OTHER STATUTORY PROVISIONS

4 11. Health and Safety Code section 11150 provides, in pertinent part, that no person other
5 than an authorized prescriber shall write or issue a prescription.

6 12. Health and Safety Code section 11157 states, in pertinent part, that "[n]o person shall
7 issue a prescription that is false or fictitious in any respect."

8 13. Health and Safety Code section 11170 states, in pertinent part, that "[n]o person shall
9 prescribe, administer, or furnish a controlled substance for himself."

10 14. Health and Safety Code section 11173 states, in pertinent part:

11 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or
12 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
13 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14 (b) No person shall make a false statement in any prescription, order, report, or record,
15 required by this division.

16 (c) No person shall, for the purpose of obtaining controlled substances, falsely assume
17 the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist,
18 veterinarian, registered nurse, physician's assistant, or other authorized person."

19 15. Health and Safety Code section 11175 makes it unlawful for any person to obtain or
20 possess a prescription that does not comply with the Uniform Controlled Substances Act [Health
21 & Safety Code, § 11000 et seq.], to obtain a controlled substance by means of such non-compliant
22 prescription, or to possess a controlled substance obtained by such a prescription.

23 DRUG DEFINITIONS

24 16. Norco and Vicodin ES are among the brand names for compounds of varying
25 dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III controlled substance as
26 designated by Health and Safety Code section 11056(e)(4) and a dangerous drug per Business and
27
28

1 Professions Code section 4022.

2 17. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety
3 Code Section 11055(b)(1)(N) and a dangerous drug per Business and Professions Code section
4 4022.

5
6 18. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code
7 Section 11054(d)(13) and a dangerous drug per Business and Professions Code section 4022.

8
9 **REGULATORY PROVISIONS**

10 19. California Code of Regulations, title 16, section 1770, states:

11 "For the purpose of denial, suspension, or revocation of a personal or facility license
12 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
13 crime or act shall be considered substantially related to the qualifications, functions or duties of a
14 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
15 licensee or registrant to perform the functions authorized by his license or registration in a manner
16 consistent with the public health, safety, or welfare."

17
18 **COST RECOVERY**

19 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23
24 **FACTUAL BACKGROUND**

25 21. During the time period between September 2007 through December 2007 ("relevant
26 time period"), Respondent worked as a Pharmacy Technician at Longs Drugs Store #430
27 ("Longs"), located at 8900 Sepulveda Westway, Los Angeles, CA 90045 where she had access to
28 controlled substances and dangerous drugs.

1 22. During the relevant time period, Respondent made use of that access to input her own
2 refill authorizations and process her own prescriptions for **Vicodin ES** and **Norco** in violation of
3 Longs policy. Specifically, Respondent fraudulently obtained prescription refills by showing
4 approvals for and falsely representing the authorization for refilling of controlled substances
5 prescriptions that were never actually authorized by the indicated prescriber.

6 23. By this method, Respondent fraudulently created, filled, and acquired for use, at least
7 seven (7) prescriptions, for eight hundred sixty (860) tablets each, of **Vicodin ES** products, and at
8 least seven (7) prescriptions, for one thousand two hundred sixty (1260) tablets each, of **Norco**
9 products, a total of at least 2120 tablets of narcotic controlled substances.

10 24. On January 17, 2008 during an interview with Longs loss prevention personnel,
11 Respondent admitted to entering her own prescriptions for fill for several medications.
12 Respondent was suspended later that afternoon and officially terminated from Longs on January
13 23, 2008, approximately one week later.

14
15 **FIRST CAUSE FOR DISCIPLINE**

16 (Commission of Act Involving Dishonesty and Fraud)

17 25. Respondent is subject to disciplinary action under sections 4301, subdivision (f) in
18 conjunction with Health and Safety Code section 11157 and California Code of Regulations, title
19 16, section 1770, in that Respondent engaged in multiple acts of moral turpitude, dishonesty,
20 fraud, deceit or corruption as set forth in paragraphs 21 – 24, above.

21
22 **SECOND CAUSE FOR DISCIPLINE**

23 (Falsely Representing Facts)

24 26. Respondent is subject to disciplinary action under sections 4301, subdivision (g) in
25 conjunction with Health and Safety Code section 11173, subdivisions (a) – (c) and California
26 Code of Regulations, title 16, section 1770, in that Respondent knowingly made documents that
27 falsely represented the existence of facts as set forth in paragraphs 21 – 24, above.

28 //

1 was ordered to complete an alcohol counseling program, pay fines, fees, restitution and obey all
2 laws.

3 b. The circumstances surrounding the conviction are that on or around March 11, 2006,
4 Los Angeles Police Officers observed the Respondent's vehicle parked on the sidewalk on the
5 west side of Oakwood Ave. The officers also observed Respondent sitting on the sidewalk, on
6 the east side of Oakwood Ave. When the officers spoke with Respondent she stated that she was
7 struck by another vehicle which caused her vehicle to collide into a power pole. The officers
8 could immediately detect an alcoholic odor on Respondent's breath and observed that her eyes
9 were "bloodshot" and "watery." Respondent had slurred speech and an "unsteady gait." When
10 asked if she had been drinking, Respondent stated that she had not, and that a friend spilled a
11 drink on her shirt earlier in the evening. As result of her accident, Respondent sustained a broken
12 nose, fractured cheek bone and a laceration to her forehead. She was taken to Daniel Freeman
13 Marina Hospital where officers conducted a preliminary alcohol screening test, the results of
14 which showed that Respondent had a blood alcohol concentration of .13%.

15 c. On or about July 13, 2005, after pleading nolo contendere, Respondent was convicted
16 of one misdemeanor count of violating Vehicle Code section 23109, subdivision (c) (engaging in
17 speed contests and exhibitions of speed), a misdemeanor in the criminal proceeding entitled *The*
18 *People of the State of California v. Barbie Warren* (Super. Ct. Los Angeles County, 2005, No.
19 SMT04049). The Court sentenced Respondent to complete two years of probation with terms and
20 conditions. Respondent was ordered to pay restitution.

21 d. The circumstances surrounding the conviction are that on or around April 21, 2005,
22 Los Angeles Police Officers observed the Respondent operating a vehicle at a high rate of speed
23 (over 50-mph in a 35-mph zone). When an officer stopped the Respondent's vehicle and
24 approached her, the officer could smell "a strong odor of an alcoholic beverage on her breath."
25 The Respondent's speech was slurred and her eyes were red, bloodshot and watery. The
26 Respondent admitted to drinking Smirnoff Ice, an alcoholic beverage, prior to driving. The
27 Respondent failed to complete a variety of standardized field sobriety tests administered by the
28

1 officer and was deemed "unable to safely operate a motor vehicle." A breath test was
2 administered, the results of which showed that Respondent had a blood alcohol content of .09%.

3
4 **SIXTH CAUSE FOR DISCIPLINE**

5 (Conviction of Substantially Related Crimes)

6 30. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
7 (I), in conjunction with Cal. Code of Regs., title 16, section 1770 in that Respondent was
8 convicted of crimes substantially related to the qualifications, functions or duties of a licensed
9 Pharmacy Technician. Complainant refers to, and by this reference incorporates, the allegations
10 set forth above in paragraph 29 and all subparagraphs inclusive, as though set forth fully herein.

11
12 **SEVENTH CAUSE FOR DISCIPLINE**

13 (Possession of Controlled Substances)

14 31. Respondent is subject to disciplinary action under sections 4060 in conjunction with
15 Health and Safety Code Section 11054(d)(13) and Section 11055(b)(1)(N) in that on or about
16 October 17, 2010, Respondent possessed controlled substances without a valid prescription.

17 a. On or about February 22, 2011, a Felony Complaint was filed in the criminal
18 proceeding entitled *The People of the State of California v. Barbie Warren* (Super. Ct. Los
19 Angeles County, 2011, No. SA076690), alleging that Respondent unlawfully possessed and
20 purchased for sale, marijuana in violation of Health & Safety Code 11359 [possession for sale]
21 and possessed Oxycontin in violation of Health & Safety Code 11350 [possession of a designated
22 controlled substance].

23 b. The underlying circumstances are that on or around October 17, 2010, at approximately
24 10:48 p.m., Respondent ran a stop sign and was subsequently stopped by two California Highway
25 Patrol Officers. When an officer confronted the Respondent and her passengers, he could detect
26 "the odor of marijuana emitting from the vehicle." Respondent's passenger admitted to smoking
27 marijuana and produced the butt of a marijuana cigar. The officers then conducted a pat down
28 search of Respondent's passenger, which revealed a bag of marijuana on his person. The officers

1 then conducted a pat down search of Respondent and performed a search of her vehicle. The
2 search resulted in the discovery of a "brick of marijuana" in a plastic bag, exceeding one ounce,
3 which was located on the right rear floor board of the Respondent's vehicle. The officers also
4 discovered two bottles of unlabeled, prescription medication. One of the bottles contained 90 pills
5 which were round in shape and greenish blue in color and identified as Oxycontin. Respondent
6 denied knowledge of the marijuana in her vehicle but admitted that she obtained the Oxycontin
7 pills "from her uncle." Respondent and her passenger were arrested and the child that
8 accompanied them in the vehicle was released to her grandparent.

10 EIGHTH CAUSE FOR DISCIPLINE

11 (Actions or Conduct that Warrant Denial of a License)

12 32. Respondent is subject to disciplinary action under section 4301, subdivision (p) in
13 conjunction with section 480, subdivisions (a) – (c) and in that Respondent engaged in actions
14 and conduct that would have warranted denial of a license. Complainant refers to, and by this
15 reference incorporates, the allegations set forth above in paragraphs 21 - 31, and all
16 subparagraphs inclusive, as though set forth fully herein.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board issue a decision:

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 40903,
22 issued to Barbie L. Warren

23 2. Ordering Barbie L. Warren to pay the Board the reasonable costs of the investigation
24 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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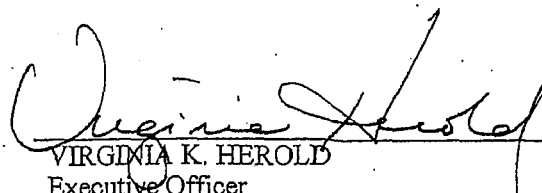
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3. Taking such other and further action as deemed necessary and proper.

DATED:

7/18/11



VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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